



THE ATTORNEY GENERAL
OF TEXAS

Gerald C. Man
~~ATTORNEY GENERAL~~
ATTORNEY GENERAL

AUSTIN 11, TEXAS

Honorable Ned McDaniel
County Attorney, Wichita County
Wichita Falls, Texas

Dear Sir:

Opinion No. O-2635
Re: Taxability of Oil Payments.

This will acknowledge receipt of your request of August 15, 1950, for an opinion from this department on the following questions:

"The State of Texas acting by and through the Board of Mineral Development has heretofore contracted with G-W Drilling Company for the latter to drill a number of wells in the Wichita River bed; the terms being fully set out in the enclosed contract. The main consideration appears to be as set out on page 6 of the enclosed contract wherein the state agrees to pay \$60,000 'only out of seventy-five per cent of all the oil' produced, etc. Additional amounts are provided for under certain conditions payable similarly.

"1. Is this payment subject to ad valorem taxes as an interest in reality chargeable to the contractor or its assigns?

* * *

"2. Further, prior to the completion of producing wells, is the interest of the contractor subject to ad valorem taxes as reality or personality?"

It is the opinion of this department that the oil payment or interest held by G-W Drilling Company is subject to ad valorem taxes as an interest in reality chargeable to the G-W Drilling Company or its assigns.

We are also of the opinion that such interest is subject to ad valorem tax as reality rather than as personality prior to the completion of producing wells.

Honorable Ned McDaniel, page 2

We feel that it is unnecessary to write an extended opinion on your request since the Supreme Court of Texas in the case of Thomas O'Connor, et al., vs. Quintana Petroleum Company, et al., opinion by Judge Bradley, rendered on Nov. 22, 1939, and reported in 133 S.W. (2d) 112, decides the questions of law involved in your request as we have answered them above.

We are enclosing a copy of the Supreme Court's main opinion in that case, as well as Attorney General's Opinion No. C-365, handed down in conference by this department on June 2, 1939, wherein this department held that the interest held by G-W Drilling Company under the above contract was an interest in real estate.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By (Signed) B. D. MARSH
Assistant

APPROVED AUG 23, 1940

(Signed) GROVER SELLERS
FIRST ASSISTANT ATTORNEY GENERAL

DERRICK
ADM

Enclosure

APPROVED Opinion Committee
By BMS Chairman